

Delegated Report

Prior Approval Application

Planning Application No: 20220490

Location: Telecommunications Station Valley Drive Gravesend Kent

Description: Application for determination pursuant to Part 16 Class A of the Town and Country Planning (General Permitted Development) Order 2015, as amended, as to whether prior approval is required for proposed telecommunications installation of a 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.

Applicant: CK Hutchison Networks (UK) Ltd

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

- Application Form;
- Covering Letter;
- Site Specific Supplementary Information;
- Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines;
- Letter to Kent County Council, dated 28th April 2022;
- 002 Site Location Plan, Drawing no. GVM17173_M003, Issue C;
- 100 Existing Site Plan, Drawing no. GVM17173_M003, Issue C;
- 150 Existing Elevation A, Drawing no. GVM17173_M003, Issue C;
- 210 Proposed Site Plan, Drawing no. GVM17173_M003, Issue C;
- 260 Proposed Elevation, Drawing no. GVM17173_M003, Issue C.

Relevant Planning History

No relevant planning history

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- T1-T3 Highways Network District Distributor.

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 - Achieving sustainable development
- Section 12 - Achieving well-designed places
- Section 15 - Conserving and enhancing the natural environment

Consultations, Publicity and Representations

Consultees

Internal Consultees

Ward Councillors – no comments received.

External consultees

KCC Heritage – no comments received.

Lower Thames Crossing – No comment

National Highways – Maintain the land belongs to National Highways.

Neighbouring properties

A site notice was displayed nearby the site 20th May 2022 and 3 surrounding properties were consulted. The overall consultation period expired 10 June 2022. No comments have been received.

Officer's Analysis

Development has been submitted under the terms of the Schedule 2, Part 16, Class of the Town and Country Planning (General Permitted Development) Order 2015 (as amended.). It is not an application for planning permission. Therefore, development is permitted under the Class A for:

'Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator in accordance with the electronic Communications code, consisting of (a) the installation, alterations or replacement of any electronic communications apparatus.

Paragraph A1.1 requires all apparatus should not exceed 15 metres A1.1(a) and should not exceed 30 metres above ground level on unprotected land.

Paragraph A.2.1(b)(i) and (iii) requires the siting and appearance of any mast or supporting apparatus which does not require prior approval under paragraph A.2(3) are such that the visual impact of the development on the surrounding area is minimised, so far as practicable.

Prior Approval

Before the application has been made, paragraph A.3(1) requires the developer to give notice of the proposed development to any person who is the owner of the land, to which the development relates, and specifies the details that are to be provided, see Paragraph A.3(2).

A covering letter has been supplied and a supplementary letter to KCC Highways has been submitted stating the applicant intends to submit a prior approval application for the telecommunications mast and associated apparatus.

As such, in accordance with Condition A.3(4) of the abovementioned legislation, the considerations of the Local Planning Authority can only be in relation to whether the prior approval of the Local Planning Authority is required in relation to the siting and appearance of the development.

However, in making this assessment, regard should be had to the importance placed on supporting high quality communications infrastructure at paragraph 114 of the NPPF which is identified to be essential for economic growth and social well-being. Although this is not directly related to matters of siting and appearance, it is an indicator that there should be a general acceptance that equipment of this nature is required and should be accommodated wherever possible.

Notwithstanding the above, the Local Planning Authority has carried out its own consultations period. As a result, National Highways has responded with the following comments;

'...Therefore National Highways objects to this notification on the grounds that the proposal is not 'in, on, over or under land controlled by that operator or in accordance with the electronic communications code'.

Therefore the application has been made in error and cannot be determined by the local planning authority other than via a written confirmation that the works would not be Permitted Development.

It will also be noted that even in the event that the Council disregarded our view, assuming that the land is confirmed as being National Highway's, no consent would be granted for any works at this site.' (Council underlining)

Under paragraph A.3(7) requires the LPA to take into account any representations made as a result of the consultations or notices given under paragraph A.3.

In light of the above, given that National Highways has made representations that the application would be on land under their ownership, subsequently objected to the application, and further stating that if the land is identified as National Highways land, permission to development would not be granted by the authority.

Conclusion & Recommendation

The application submitted is subject to paragraph A.3(1)(a) which requires the developer to give notice of the proposed development to any person who is the owner of the land to which the development relates. Also, paragraph A.3(7)(a) also requires the LPA to take into account any representations made to them as a result of the consultation or notices given under paragraph A.3. As National Highways object to the application on land ownership grounds, therefore, without the appropriate notification to the relevant land owners the Local Planning Authority cannot grant approval under Schedule 2, to Part 16 Class A of the Town and Country Planning (General Permitted Development) Order 2015, as amended.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Ms Genna Henry	Team Leader:	Richard Hart
Signed:	<i>G.Henry</i>	Signed:	<i>R Hart</i>
Dated:	30th June 2022	Dated:	30th June 2022